

## **Title 16**

### ***SUBDIVISIONS***

Chapters:

#### **16.04 Introductory Provisions and Definitions**

#### **16.08 *Subdivision Application* Procedure and Approval Process**

#### **16.12 Design Standards and Required *Improvements***

#### **16.16 *Converted Condominium* Assessments**

### **Chapter 16.04**

#### **INTRODUCTORY PROVISIONS AND DEFINITIONS**

Sections:

**16.04.010 General provisions.**

**16.04.020 General requirements.**

**16.04.030 Interpretation and definitions.**

#### **16.04.010 General provisions.**

A. Authority. The town, pursuant to New York State Town Law, Section 276, authorizes and empowers the planning board of the town to approve preliminary and *final plats* of *subdivisions*. This authority includes the approval of the development of plats, entirely or partially undeveloped, that are filed in the office of the Chemung County clerk and such filing occurred prior to the appointment of the planning board.

B. Purpose. The purpose of this title is to provide for the orderly growth and development of the town and to afford adequate facilities for the housing, transportation, distribution, comfort, convenience, health, safety and welfare of the town's population. This title establishes the minimum requirements for the approval of *final plats*, including a description of required maps and supporting materials, on which the planning board will base any decision made pursuant to this title. The review and approval procedures contained herein are designed to safeguard the community.

C. General Policy. It is declared to be the policy of the town board to consider land *subdivisions* as part of a plan for the orderly, efficient and economical development of the town which is to be done in a manner that is reasonable and in the best interests of the community.

D. Restriction.

1. No person shall sell or otherwise transfer title or interest in a property of a *subdivision* for which a copy of the *final plat* has not received final approval and not been filed in the office of the Chemung County clerk.

2. No building permit shall be issued for a lot in a *subdivision* for which a copy of the *final plat* has not received final approval and has not been filed in the office of the Chemung County clerk.

(LL No. 3, 2001 § 1)

#### **16.04.020 General requirements.**

The planning board will be guided in its consideration of an application for the *subdivision* of land by the following general requirements:

A. The physical characteristics of the land to be subdivided shall be such that it can be used for building purposes

without danger to health and safety, property, or peril from fire, flood or other menace.

- B. Proper provision shall be made for drainage, water supply, sewage, utilities and other needed improvements.
- C. All *parcel* developments shall meet town, county, state and federal health requirements.
- D. Natural and historic features shall be preserved. Insofar as possible, all existing features of the landscape such as large trees, rock outcrops, unusual glacial formations, water and flood courses, historic sites and other such irreplaceable assets shall be preserved.
- E. *Final plats* shall conform to the town comprehensive plan and the *zoning law*.
- F. Roads, drives and driveways shall be of such width, grade and location as to accommodate the prospective traffic, account for topographic relief and to facilitate fire protection access.
- G. Roads shall be constructed in accordance with the town highway specifications.
- H. Public parks or playground of suitable location, size and character for recreational purposes shall be shown on the *final plat* in proper cases and when required by the planning board.
- I. In general, *lot* lines shall be laid out so not to cross municipal boundary lines.
- J. Whenever road to access a *subdivision* is proposed to be from the land in another municipality, the planning board shall request assurance from the official having jurisdiction over the roads in the other municipality that the proposed road access is adequate. The *applicant* for a *subdivision* with access from another municipality shall provide documentation from the other municipality that the design of the proposed road is adequate and acceptable to the other municipality. The planning board may disapprove such *subdivision* if access is not determined to be adequate in the other municipality.
- K. For a *resubdivision*, the same procedure shall apply as for a *subdivision*. If the proposed *resubdivision* consists solely of the simple *alteration* of lot lines with no major changes in lot sizes, access, proposed roads, sewage disposal systems and/or public facilities, then normal *subdivision* procedures may be waived at the discretion of the planning board.
- L. Where the strict enforcement of this chapter would result in practical difficulty, unnecessary hardship, conflict with other requirements due to topography or other conditions affecting the land being subdivided and such *subdivision* is deemed to be of greater benefit or importance, the planning board may vary the application of the requirements specified in this chapter in harmony with this chapter's general purpose and intent. The planning board in any plat approval by resolution stating the planning board's reasons for granting such a waiver.
- M. Notwithstanding any provisions of NYS Town Law and this chapter to the contrary, where a plat contains one or more *lots* that do not comply with the BFZL regulations, and application may be made to the zoning board of appeals for an area variance without the necessity of a decision or determination made by the code enforcement officer. Such application to the zoning board of appeals shall be made in accordance with the rules of the zoning board of appeals and in accordance with the *zoning law*.

(LL No. 3, 2001 § 2)

#### **16.04.030 Interpretation and definitions.**

- A. The word "*lot*" includes the words "*plot*", "*parcel*", "*site*", or other division of land.
- B. Defined Terms. For the purpose of these regulations, certain words and terms used herein are defined as follows:

*Concept plat* means a drawing prepared in accordance with Section 16.08.020 showing in sketch form the general manner in which a tract of land is proposed to be subdivided.

*Final plat* means drawings prepared in accordance with these regulations showing in final form, as specified in Section 16.08.040, a proposed *subdivision* of a tract of land including all information, detail and final plans for related improvements required by law, and, if approved suitable for filing in the office of the county clerk.

*Final plat approval* means the signing of a plat in final form by the duly authorized officer of the planning board pursuant to planning board resolution granting final approval of the plat or after conditions specified in such resolution granting conditional approval are completed. Such *final plat approval* qualifies the plat for recording in the office of the county clerk.

*Original parcel* means a *parcel* of land as defined by its legal boundaries as of the effective date of this title.

*Parcel*. See *Lot*.

*Performance guarantee* means any security which may be acceptable to the town board on all public improvements specified in these regulations to be constructed by the *applicant*. This guarantee shall be made before the planning board approves the *final plat*.

*Preliminary plat* means a drawing prepared for major *subdivisions* in accordance with Section 16.08.030 showing the manner in which a tract of land is proposed to be subdivided and including preliminary design data for related improvements. This is identical to the "Preliminary Layout" referred to in Section 276 of the Town Law.

*Road pavement* means the wearing or exposed surface of the roadway used by vehicular traffic.

*Road width* means the width of the right-of-way, measured at right angles to the centerline of the road.

*Road, Dead-End. Dead-end road* means a road that connects at only one point to other public or private roads resulting in only one means of access to the regional road network, even though the road may loop or be designed in such a way that it provides more than one means to access lots.

*Re-subdivision* means a change in a map of an approved or filed *final plat*, including merging of tax *parcels*.

*Subdivider* means any person, firm, corporation, partnership, or other organization that proposes any *subdivision* as defined herein.

*Subdivision* means the division of any *parcel* of land into two or more *lots*, plots, sites or other division of land with or without roads for the purpose of sale, transfer of ownership, or development. If a new road or extension of an existing road or any municipal facilities is involved, any division of an *original parcel* of land will constitute a *subdivision*. The second *lot* of an *original parcel* creates a *subdivision* and all *lots* are required to meet the criteria of this title.

*Surveyor, Licensed Land (LLS). Licensed land surveyor* means an individual licensed by the state of New York to prepare surveys.

*Zoning law* means the zoning law of the town of Big Flats.

## **Chapter 16.08**

### **SUBDIVISION APPLICATION PROCEDURE AND APPROVAL PROCESS**

Sections:

**16.08.010 General requirements.**

**16.08.020 Concept plat procedure.**

**16.08.030 Preliminary plat procedures.**

**16.08.040 Final plat procedures.**

**16.08.050 Required improvements.**

#### **16.08.010 General requirements.**

Prior to the sale, transfer of ownership or development of lands in a *subdivision*, and before any *final plat* may be filed in the office of the Chemung County clerk, the *applicant* shall apply for and secure approval of such proposed *subdivision* in accordance with the procedures outlined in this chapter. The *applicant* shall attend a regular meeting of the planning board to discuss the

requirements of this chapter and/or to submit a *concept plat*. A *subdivision* or *resubdivision* shall follow the same procedures as follows.

(LL No. 3, 2001 § 4(part))

#### **16.08.020 Concept plat procedure.**

The purpose of this optional step is to afford the *applicant* an opportunity to consult early and informally with the planning board. The planning board shall determine whether the *concept plat* meets the purposes and specific requirements of this title and shall notify the *applicant* in writing of its findings, including any recommended modifications to the *concept plat*.

- A. Requirements. A *concept plat* may be prepared and ten (10) copies submitted to the code enforcement officer along with required supporting documentation and a fee as specified by the town board. If submitted, the *concept plat* shall comply substantially with the requirements set forth in this chapter. The planning board shall study the *concept plat* of a proposed *subdivision* in relation to existing and potential development of the adjacent area, the town and county comprehensive plans, town zoning law, and in the course of its review may consult with other interested public agencies and/or town consultants. The planning board action on the *concept plat* shall be provided to the *applicant* in the form of planning board minutes for the meeting at which such action took place.
- B. Waiver of requirements. The planning board may, at its discretion, waive any and all submittal requirements that are clearly not relevant to the application and/or site, and state the reason for such waiver.
- C. Requirements for *concept plat*. The *concept plat* shall be drawn on paper or other suitable material at a standard scale of not more than two hundred (200) feet to the inch and shall show the following information:
  - 1. A location map showing the boundaries of the total tract in relation to adjoining streets; schematically the locations of the nearest: water and sewer lines, parks and playgrounds within one quarter ( $\frac{1}{4}$ ) mile (one thousand three hundred twenty (1,320) feet) of the proposed *subdivision* and other public facilities as appropriate;
  - 2. Title of the sketch, including name and address of the *applicant*;
  - 3. North point, scale and date;
  - 4. Tax *parcel* number of the property to be subdivided and tax *parcels* numbers and names of owners for all adjoining *lots*;
  - 5. Boundaries of the tract to be subdivided plotted to scale. If the *applicant* intends to develop the tract in stages, the entire tract shall nevertheless be included in the *concept plat* with the appropriate stage or phase boundaries delineated;
  - 6. A USGS topographic survey showing ground contours adjacent to and within the tract to be subdivided at intervals of not more than twenty (20) feet of elevation, and all pertinent topographic and planimetric features within and adjoining the tract, including existing streets, existing buildings, watercourses and their one hundred (100) year floodplain, steep slopes, water bodies, wetlands, wooded areas, and individual large trees. Other features to be retained in the *subdivision* should be so indicated;
  - 7. The approximate lines of any proposed roads, *lots*, sidewalks and neighborhood recreation areas or other permanent open space;
  - 8. Schematic indication of any proposed system for storm water management;
  - 9. Statement as to any proposed source of water supply and method of sewage disposal;
  - 10. Indication of the zoning of the tract and any other legal restrictions of use;
  - 11. Name or names of registered/licensed professional architect, landscape architect and/or engineer and

*licensed land surveyor* responsible for the preparation of the *concept plat* and related documents.

12. A completed copy of the appropriate State Environmental Quality Review (SEQR) Environmental Assessment Form.

(LL No. 3, 2001 § 4(a))

#### **16.08.030 Preliminary plat procedures.**

The *applicant* or his or her authorized agent shall apply for and secure approval of a proposed *subdivision* in accordance with the following procedures:

- A. Submission of *preliminary plat*. A *preliminary plat* layout shall be prepared and submitted to the CEO for all proposed *subdivisions*, and shall be subject to the following.
  1. For the purpose of this title, the review time shall begin from the acceptance of the *preliminary plat* as complete by the planning board.
  2. A fee as determined by the town board to be provided at the time of the submission.
  3. The *preliminary plat* layout shall satisfy the submission requirements as described in this chapter and shall comply with the recommendations made by the planning board in its report on the *concept plat*, if any.
  4. Ten (10) copies of the *preliminary plat* layout and supplementary material specified shall be submitted to the CEO.
  5. The *applicant* or his or her duly authorized representative shall attend the meeting of the planning board at which the *subdivision* proposal is to be considered. Failure of the *applicant* to attend the planning board meeting may result in a tabling action with all periods stayed.
  6. The planning board shall study the preliminary layout in connection with the topography of the area, requirements of the zoning law, the comprehensive plan, and the town official map, and shall take into consideration the general requirements of the town, as well as generally accepted county, state and federal requirements. Particular attention shall be given to the suitability of the land for development, the layout of proposed roads to make sure that adequate provision has been made for accommodating the prospective traffic, provisions for storm water drainage, sewage disposal and the adequacy of proposed sites for parks, playgrounds, and other community facilities.
- B. Requirements for *preliminary plat*. The *preliminary plat* shall be drawn on one or more sheets of reproducible material and shall be clearly marked as a "*Preliminary Plat*", be drawn at a standard scale of not more than fifty (50) feet to one inch and shall include the information listed below. If more than one sheet is required to show an entire tract, an index map shall be provided. The planning board may, at its discretion, waive any and all submittal requirements that are clearly not relevant to the application and/or site, and state the reason for such waiver. The *preliminary plat* shall at a minimum provide the following:
  1. A location map showing the boundaries of the total tract in relation to adjoining streets; schematically the locations if within five hundred (500) feet of the proposed *subdivision*:
    - a. The nearest elementary school,
    - b. Water and sewer lines,
    - c. Parks and playgrounds, and
    - d. Other public facilities, such as shopping, churches, and public transportation routes as appropriate;
  2. A copy of such proposed covenants or deed restrictions as are intended to cover all or part of the tract;

3. Title of the *subdivision*, including name and address of the *applicant*, who shall have some interest in the land, or the owner of *parcel* to be subdivided;
4. North point, scale, date, and location map;
5. A topographic map prepared by a *licensed land surveyor* showing ground contours adjacent to and within the tract to be subdivided at intervals of not more than two feet of elevation, and all pertinent topographic and planimetric features within and adjoining the tract;
6. Existing roads, existing buildings, water courses and their one hundred (100) year floodplains, steep slopes, water bodies, wetlands, wooded areas, individual large trees, and all certified Agricultural District boundaries within five hundred (500) feet of the proposed *subdivision* boundaries. Other features to be retained in the *subdivision* should be so indicated;
7. Names of owners and *applicant* and tax *parcel* identification number(s) of the *lot* to be subdivided, and names of owners and tax *parcel* identification number(s) for all *lots* that adjoin the *subdivision*;
8. Indication of the zoning of the tract and any other legal restrictions of use;
9. The plat shall be prepared by a professional engineer, architect, or *licensed land surveyor* licensed to practice in New York State. The plat shall bear the name or names of the architect and/or professional engineer and *licensed land surveyor* responsible for the preparation of the *preliminary plat*;
10. The approximate lines and areas of proposed *lots*, including required setbacks, which shall be numbered and the location of existing or proposed access to public roads from all *lots*. If the *applicant* proposes to develop the *subdivision* in stages or phases, the entire *preliminary plat* shall identify any and all such stages or phases within the entire *lot*. Each such section or phase shall encompass at a minimum ten (10) percent of the proposed number of *lots*;
11. The dimensions and arrangements of *lots*, which shall be such that there will be buildable *lots* in compliance with all requirements of the zoning law. In general, side *lot* lines shall be at right angles or radial to road right-of-way unless a variation from this can be shown to result in a better plan;
12. Existing storm water management facilities/features, water lines, hydrants and sanitary sewers nearby and within the tract to be subdivided, with their location size, type and approximate elevations and gradients using mean sea level as datum plane. Also, existing easements for such facilities;
13. Width and location of any existing roads or public ways, the approximate lines, gradients and road profiles of all proposed roads and sidewalks and the names of proposed roads;
14. Location of all existing buildings and proposed building envelopes (that area established by minimum yard setback requirements in the zoning law) indicating setback dimensions and other pertinent data. If a proposed *lot* contains one or more existing buildings, the proposed setback dimensions for such buildings shall be indicated. Buildings on each *lot* showing setback and other pertinent data;
15. The approximate locations and dimensions of areas proposed for parks or playgrounds, or other permanent open space;
16. Statement as to proposed source of water supply and method of sewage disposal. If private, on-*lot* sanitary sewage disposal is proposed, the necessary data and preliminary design of unit shall be provided to the Chemung County health department;
17. Proposed system for storm water drainage indicating the approximate location and size of proposed lines and their profiles, connection to existing lines or alternate means of control. A drainage report presenting plan and supporting data for storm water drainage and erosion control provisions within the *subdivision*, including:

- a. Plan, profiles, and typical and special cross-sections of proposed storm water drainage facilities,
  - b. Supporting final design data and copies of computations used as a basis for the design capacities and performance of the drainage facilities,
  - c. *Subdivision* grading plan developed to suitable contour interval with grading details to indicate proposed street grades and elevations and building site grades and elevations through the *subdivisions*,
  - d. If the *subdivision* is within or adjacent to any designated floodplain, a detailed analysis of the area with respect to the management of the floodplain shall be included in the *final plat* drainage report,
  - e. A separate drainage report shall clearly indicate the basis of design and the intended method of storm water disposal in accordance with town standards for stormwater management,
  - f. Proposed method of maintenance for any proposed storm water management facilities;
18. The location of any municipal boundary lines, existing special service district lines, and zoning district lines within the *lot* proposed to be subdivided;
  19. Indications of all proposed nonconforming *lots* showing the required and actual areas, yards, and setbacks as applicable;
  20. A reproducible overlay showing all soil areas and their classification as determined by Natural Resources Conservation Service and those areas, if any, with moderate to high susceptibility to erosion. For areas with potential erosion problems, the overlay shall also include and outline any description of existing vegetation and proposals for additional planting for erosion control;
  21. Design, plans and cross-sections showing proposed location and type of roads, sidewalks, road lighting, road trees, curbs, water mains, sanitary sewers, and the size and type thereof, the character, width and depth of pavements and sub-base, the location of manholes, basins and underground conduits;
  22. Design of any proposed bridges or culverts, which may be required;
  23. Completed application forms as provided by the town and such additional explanation of the purpose of the *subdivision* as appropriate.
- C. Coordination with the State Environmental Quality Review Act (SEQR). The planning board shall comply with all of the provisions of SEQR and its implementing regulations in the review and approval of a *subdivision*. SEQR timeframes shall be coordinated in the *subdivision* review process in the following manner:
1. Complete *preliminary plat*. A *preliminary plat* shall not be considered complete until a negative declaration has been filed or until a notice of completion of a draft environmental impact statement (DEIS) has been filed in accordance with the provisions of SEQR.
  2. Public Hearing. When an environmental impact statement is required, and a public hearing on the DEIS is held, the planning board shall hold both public hearings jointly within sixty-two (62) days of the filing of the notice of completion on the DEIS.
  3. Decision. When an environmental impact statement is required, the planning board shall make a decision on the *preliminary plat* within thirty (30) days of the filing of a notice of completion on the final environmental impact statement (FEIS).
- D. Public Hearing on *Preliminary Plat*. The planning board shall schedule a public hearing within sixty-two (62) days

from the date at which the planning board determines the *preliminary plat* to be complete in accordance with this section of this chapter. The hearing on a *preliminary plat* shall be advertised at least five days before its scheduled date in a newspaper of general circulation in the town if no hearing is held on a DEIS, or fourteen (14) days before a hearing to be held jointly therewith. The planning board may provide that the hearing be further advertised in such manner as it deems appropriate.

- E. Decision on *preliminary plat*. Within sixty-two (62) days after the public hearing on the *preliminary plat*, or thirty (30) days of the notice of completion of the FEIS if one is prepared, the planning board shall act upon it. All timeframes may be extended upon mutual consent of the planning board and the *applicant*. The planning board's action shall be to approve with or without modifications, approve, or disapprove the *preliminary plat*. When granting approval of a *preliminary plat*, the planning board shall state the conditions for such approval, if any, with respect to the following:
1. The specific changes which it will require in the *final plat*;
  2. The character and extent of required improvements for which waivers may have been requested and which in its opinion are waived without jeopardy to public health, safety and general welfare; and
  3. The amount of improvement or amount of all bonds therefore which it will require as prerequisite to the approval of the *final plat*.

If the *preliminary plat* is disapproved, the planning board's resolution shall contain the reasons for such findings. Subsequent to the public hearing, the planning board may recommend to the *applicant* further study of the proposed *subdivision* and re-submission of the preliminary layout to the planning board after it has been revised or redesigned.

- F. Default Approval. Failure of the planning board to act within the prescribed timeframes, including the requirements of SEQR, without an extension by mutual consent of the *applicant* and the planning board shall result in the *preliminary plat* being deemed approved.
- G. Certification and Filing of Decision. Within five business days of the adoption of the resolution granting approval with or without modifications, approval or denial of such *preliminary plat*, the authorized representative of the planning board shall cause a copy of *preliminary plat* and the resolution to be filed in the office of the town clerk. The secretary for the planning board shall certify such plat and resolution. The *applicant* will be immediately provided with a copy of the resolution stating the action taken.
- H. *Stormwater Pollution Prevention Plan*. A stormwater pollution prevention plan consistent with the requirements of this chapter (the *stormwater management* and erosion and *sediment control* law of the town of Big Flats (Chapter 17.37 of the town of Big Flats Municipal Code)) shall be required for preliminary *subdivision* plat approval. The *SWPPP* shall meet performance and design criteria and standards set forth in Chapter 17.37 of the town of Big Flats Municipal Code. The approved preliminary *subdivision* plat shall be consistent with the provisions of this chapter (the *stormwater management* and erosion and *sediment control* law of the town of Big Flats).

(LL No. 9, 2007 § 3 (part); LL No. 3, 2001 § 4(b))

#### **16.08.040 Final plat procedures.**

A. Submission of *Final Plat*. After receiving approval with or without modifications, or approval of a *preliminary plat* from the planning board, the *applicant* may prepare the *final plat* and submit ten (10) copies to the CEO for planning board approval at least in accordance with the adopted planning board procedures; except that if more than six months has elapsed between the time of the planning board's decision on the *preliminary plat* and submission of the *final plat*, and if the planning board finds that conditions have changed significantly in the interim, the planning board may require resubmission of the *preliminary plat* for further review and possible revision prior to accepting the proposed *final plat* for review. If the *final plat* is not submitted within six months, approval of the *preliminary plat* may be revoked. The *applicant* may request an extension of the six month *preliminary plat* approval before the end of the six month timeframe.

B. Requirements for *Final Plat*: The *final plat* shall conform substantially to the *preliminary plat* that has received approval from the planning board. It should incorporate any modifications that have been required by the planning board for the



*subdivision* plat stage. All such modifications shall be clearly indicated by the *applicant* on the appropriate submission. The *final plat* submittal shall include the following, which shall be considered minimum requirements:

1. An actual field *survey* of the boundary lines of the tract and *lots* giving complete descriptive data by bearings and distances made and certified to by a *licensed land surveyor*. The corners of tract shall also be located on the ground and marked by monuments, and shall be referenced and shown on the plat. If the *applicant* intends to develop the tract in stages, the *final plat* shall identify any and all such stages or phases within the entire *lot*;
2. If a *subdivision* is proposed in stages, the *applicant* may prepare and submit a *final plat* for a portion of the area encompassed by the *preliminary plat* for each stage or phase, provided the proposed *development* stages were indicated on the preliminary layout reviewed by the planning board;
3. All maps, plans and drawings submitted for final review and approval shall be duly certified by a licensed surveyor in the case of *surveys* and a licensed professional engineer in the case of engineering drawings. Such certifications shall expressly run in favor of the town;
4. All construction drawings including plans, profiles and typical cross-sections as required below, all necessary permits from *county*, state, and federal authorities; and
  - a. *Grading, storm water management*, and erosion, and sedimentation control, including all proposed maintenance *easements* and/or rights-of-way,
  - b. All proposed public and *private roads*,
  - c. All water and sewer facilities,
  - d. Energy distribution facilities;
5. When submitting a *final plat* for approval, the *applicant* shall also file with the planning board formal offers of *dedication* to the town or other appropriate public *agency* of all streets, parks and playgrounds, and other permanent open spaces for community use shown on the *final plat*. The approval of the plat does not constitute an acceptance by the town of the *dedication* of those facilities. The *applicant* shall attach all necessary *easements* for *storm water* discharge, petitions, maps, plans and reports for creation of any needed special *districts*, or any other legal documents that may be required by the planning board;
6. Evidence of approval of the *sewage* disposal system for each *lot*;
7. Security, surety or performance bond in an amount and *form* acceptable to the town.

C. Coordination with the State Environmental Quality Review Act (SEQR). The timing modifications outlined in Section 16.08.030(C) of this chapter for a *preliminary plat* for the coordination with SEQR timeframes shall also be applicable for a *final plat* should the *final plat* not substantially conform to the *preliminary plat* and the planning board find it necessary to re-open the SEQR determination.

D. Public Hearing. The planning board may hold a public hearing on the *final plat* if the board deems that there are substantial changes or modifications from the approved *preliminary plat*. The planning board shall schedule a public hearing within sixty-two (62) days from the date at which the planning board determines the *subdivision* plat to be complete in accordance with Section 16.08.030 of this chapter. The hearing on a *final plat* shall be advertised at least five days before its scheduled date in a newspaper of general circulation in the town if no hearing is held on a DEIS, or fourteen (14) days before a hearing to be held jointly therewith. The planning board may provide that the hearing be further advertised in such manner as it deems appropriate.

E. Decision on *Final Plat*. Within sixty-two (62) days from the acceptance of a complete *final plat* by the planning board, if no hearing is held, or in the event a hearing is held, within sixty-two (62) days after the date of such hearing, or thirty (30) days of the notice of completion of the FEIS if one is prepared, the planning board shall conditionally approve with or without modifications, disapprove or grant final approval of the *final plat*. In reviewing a *final plat*, the planning board may consult with the town consultants and such other officials or agencies as may be appropriate in each case. The action of the planning board shall be

recorded in the board's minutes and the *applicant* shall be notified of the reasons for disapproval.

F. Certification of Action on a *Final Plat*. Within five business days of the adoption of the resolution granting conditional or final approval of the *final plat*, such plat shall be certified by the secretary of the planning board as having been granted conditional or final approval, and shall be filed in such clerk's office. A copy of the resolution shall be mailed to the *applicant*. In the case of a conditionally approved plat, such resolution shall include a statement of the requirements which when completed will authorize the signing thereof. Upon completion of the requirements, the duly authorized officer of the planning board shall *sign* the plat and a copy of such signed plat filed in the office of the town clerk.

G. Default Approval. In the event that the planning board fails to act on a *final plat* within the time frames prescribed therefore, or within such extended time frames as may have been established by mutual consent of the *applicant* and the planning board, such *final plat* shall be deemed granted approval. The *applicant* may petition the town clerk for a certification of default approval.

H. Approval of *Final Plat* in Sections or Phases. In granting conditional or approval of a *final plat* in final form, the planning board may permit a *final plat* to be divided and developed in two or more sections or phases. The planning board may in the resolution granting conditional or final approval state such requirements as it deems necessary to insure orderly *development* of the plat to be completed before the sections of phases may be signed by the duly authorized officer of the planning board. Conditional or final approval of the sections or phases of a *final plat* may be granted concurrently with conditional or final approval of the entire plat, subject to any requirements imposed by the planning board.

I. Filing of a *Final Plat*. The *applicant* shall file a *final plat*, or section or phase thereof in the case of a plat being developed in phases, having received final approval in the office of the *county* clerk within sixty-two (62) days of the date of such final approval. In the event that the *applicant* shall file only a section or phase of such *final plat*, the entire plat having received final approval shall be filed within thirty (30) days of the filing of each section or phase with the town clerk in each town in which any portion of land described in the plat is situated. Such section or phase shall encompass at least ten (10) percent of the total number of *lots* contained in the approved plat and the approval of the remaining sections or phases of the approved plat shall expire unless the sections or phases are filed before the expiration of the exemption period to which such plat is entitled under the provisions of Town Law, Subdivision 2, Section 235-a.

J. Expiration of *Final Plat Approval*. Failure of the *applicant* to file the *final plat* having received final approval in the office of the *county* clerk within sixty-two (62) days of such final approval shall cause such final approval to expire. The *applicant* shall be required to re-file the *subdivision* with the town.

K. A *stormwater pollution prevention plan* consistent with the requirements of this chapter (the *stormwater management* and erosion and *sediment control* law of the town of Big Flats (Chapter 17.37 of the town of Big Flats Municipal Code)) and with the terms of the preliminary plat approval shall be required for final *subdivision* plat approval. The *SWPPP* shall meet performance and design criteria and standards set forth in Chapter 17.37 of the town of Big Flats Municipal Code. The approved final *subdivision* plat shall be consistent with the provisions of the *stormwater management* and erosion and *sediment control* law of the town of Big Flats.

(LL No. 9, 2007 § 3 (part); LL No. 3, 2001 § 4(c))

#### **16.08.050 Required improvements.**

A. Performance Bond. Prior to *final plat* approval, the *applicant* shall file with the town clerk, in an amount to be set by the *town board*, a certified check to cover the full cost of all required *improvements* or a performance bond to cover the full cost of all *improvements*. The performance or completion bonds shall comply with Section 277 of the Town Law, and shall be satisfactory to the *town board*, town attorney, and town engineer as to *form*, sufficiency, manner of execution and surety, to insure installation of all *improvements* shown on the *final plat*. A period of at least one year of filing of the plat, in accordance with the standards and specifications of the town but no more than three years shall be set forth in the bond within which time all required *improvements* shall be completed. The time limit may be extended by the board, upon written *application* made not less than thirty (30) days prior to the expiration of the period in accordance with NYS Town Law Section 277.

B. Inspection of *Improvements*. The *town board* shall provide for the inspection of required *improvements* during and after construction to assure that all town specifications and requirements shall be met during the construction of the required *improvements*, and to assure satisfactory completion of the *improvements* and utilities as required by the planning board. The

*applicant* shall pay an inspection fee as set by the town board. Such fee shall be paid to the town prior to *final plat approval*.

C. *Record Drawings*. The *applicant* shall deliver and file with the town a set of final maps, plans and drawings conforming to those submitted for the *final plat* receiving *final plat approval*, and certified by a duly licensed professional engineer that all construction of *improvements* was accomplished in accordance with such final flat approval, and the certification shall run specifically in the favor of the town.

D. *Acceptance of Improvements*. The *applicant* shall complete all required *improvements* to the satisfaction of the town engineer and/or *town approval authority* with jurisdiction over the improvement, who shall file with the *town board* a report documenting the satisfactory completion of all required *improvements*, including all rights-of-way and *easements*, in the *form* of an acceptable deed filed with the town clerk.

(LL No. 3, 2001 § 4(d))

## Chapter 16.12

### DESIGN STANDARDS AND REQUIRED IMPROVEMENTS

Sections:

**16.12.010 General.**

**16.12.020 Lots and blocks.**

**16.12.030 Road design guidelines.**

**16.12.040 Storm water management and erosion control.**

**16.12.050 Utilities.**

**16.12.060 Easements.**

**16.12.070 Neighborhood parks and playgrounds.**

**16.12.080 Driveway standards.**

**16.12.090 Steep slope guidelines.**

#### **16.12.010 General.**

The planning board, in reviewing an application for approval of a *final plat*, shall be guided by the considerations and standards presented in this chapter. In its review, the planning board shall take into consideration the prospective character of the development and require that *subdivision* improvements be designed to such standards as are consistent with reasonable protection of the public health, safety, or welfare.

(LL No. 3, 2001 § 5(a))

#### **16.12.020 Lots and blocks.**

A. *Lot Size and Arrangement*: The dimensions and arrangements of lots shall be such that there will be no foreseeable difficulties, for reasons of topography or other conditions, in providing access to buildings on such lots or in securing building permits to build on the lots in compliance with the zoning law. In general, side lot lines shall be at right angles or radial to street lines, unless a variation from this can be shown to result in a better plan.

B. *Access*. Insofar as possible, lots shall not derive access from a primary road. Access to lots adjacent to a primary road shall in general be from marginal access roads or other roads within the *subdivision*. Where a watercourse separates the buildable area of a lot from the road by which it has access, provision shall be made for installation of a culvert or other structure, which shall be subject to the same design criteria and review as all other storm water drainage facilities in the *subdivision*.

(LL No. 3, 2001 § 5(b))

#### **16.12.030 Road design guidelines.**

A. *General Requirements*.

1. Road systems shall be designed with due regard to the needs for: convenient traffic access and circulation; traffic control and safety; access for fire fighting, snow removal, and street maintenance equipment; and storm water drainage and sewage disposal. Roads shall be designed to accommodate the prospective traffic, so arranged as to separate through traffic from neighborhood traffic insofar as possible, and coordinated to compose a convenient

system.

2. The roads in contiguous developments shall be designed and coordinated to compose a convenient roadway system. Where a *subdivision* adjoins undeveloped land, its roads shall be laid out to provide suitable future road connections with the adjoining land when the latter shall be subdivided. A road thus temporarily *dead-ended* shall be constructed to the property line and shall be provided with a temporary turn-around of the same dimensions as for permanent *dead-end roads*, with a notation on the *final plat* providing for temporary easements for the turn-around until such time as the road is extended. These same requirements shall apply at the discretion of the planning board in those cases where the adjoining land is in another section or phase of the same *subdivision*, and which is not scheduled for development at the same time.
3. Roads shall be logically related to the topography, and all roads shall be arranged so that as many building sites as possible are at or above the grade of the roads. Grades of roads shall conform as closely as possible to the original topography. A combination of steep grades and sharp curves shall be avoided.
4. Where a *subdivision* abuts on or contains an existing or proposed primary road, the planning board may require marginal access roads, reverse frontage with screen planting contained in a nonaccess reservation along the rear property line, deep lots with or without rear service alleys, or such other treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.
5. Where a *subdivision* borders or contains an existing or proposed railroad right-of-way or controlled access highway right-of-way, the planning board may require a road approximately parallel to and on each side of such right-of-way, at a distance suitable for the appropriate use of the intervening land, as for park purposes in residential districts, or for business, commercial or industrial purpose in appropriate areas. Such distances shall also be determined with due regard for the requirements of approach grades and future grade separations.

B. Standards for Road Design: All roads shall be designed and constructed to conform to The Standard for Construction in the Town of Big Flats.

C. Typical Road Section. The typical section shall be as required in The Standard for Construction in the Town of Big Flats and shall be approved by the town official having jurisdiction. Pavement and right-of-way width may vary with the type of use required storm water management facilities, or other appurtenances.

D. Private Roads. All private roads shall have a minimum fifty (50) feet of right-of-way granted by the *applicant* to each lot owner served by the road. The middle twenty (20) feet or more shall be improved with base, gravel and drainage structures as required by The Standard for Construction in the Town of Big Flats.

E. Road Intersections. Intersections of roads shall be held to a minimum and spaced in accordance with The Standard for Construction in the Town of Big Flats.

F. *Dead-End Roads*. It is the town's intent to minimize the number and length of *dead-end roads* in order to provide for a more efficient, integrated road network that accommodates the movement of vehicles in a safe manner that is consistent with the density of population and the safe and expedient movement of emergency equipment and school vehicles. The town also seeks to provide, to the greatest extent possible, for a continuous movement of town road maintenance equipment on town roads in order to minimize deadhead travel costs and time. To this end the planning board shall consider:

1. *Dead-end roads* shall not be permitted unless the *applicant* can demonstrate that existing topography prohibits the continuation of existing or proposed public roads or private roads;
2. *Dead-end roads* shall be no longer than six times the minimum lot width for the zoning *district* in which the *subdivision* is located, such length to be measured to the center point of the turn-around or furthest extent of the *road* loop. In no instance shall a *dead-end road* exceed two thousand (2,000) lineal feet in length;
3. In no instance shall more than twenty (20) *lots* access from a *dead-end road*;
4. If any length of a proposed or existing *road* is located within the one hundred (100) year floodplain, there shall be

two means of egress; provided, that they do not traverse a floodplain;

5. No reserve strips of land shall be permitted between a proposed *road* and an adjacent piece of property. The planning board may require the reservation of an *easement* fifteen (15) feet wide for pedestrian traffic or utilities; and
6. A turn-around meeting The Standard for Construction in the Town of Big Flats shall be provided at the end of any permanent *dead-end road*.
- G. Other Road *Improvements*.
  1. Pedestrian Access. The *applicant* shall provide such special *road* and/or walkway designs to accommodate safe pedestrian movement and access as required by the planning board.
  2. Trees. The *applicant* shall take adequate measures to preserve desirable existing trees in suitable locations within the *subdivision*. Street trees shall be planted on both sides of the *road* and ten (10) feet outside the *right-of-way*, at intervals of approximately fifty (50) feet, subject to location of *drives*, *road* intersections, or other features. In general, the *road right-of-way* shall be cleared of existing trees, but occasional existing trees of unusual value may be preserved within the *road right-of-way* if approved by the planning board.
  3. Road Names and Signs. All *roads* shall be named, and such names shall be subject to the approval of the planning board. A *road*, which is a continuation of an existing *road*, shall bear the same name. There shall be no duplication of existing area *road* names. Relating *road* names to features of local historical, topographical or other natural interest is encouraged. All *road* names shall be no more than one word in length. *Road signs* shall be provided by the *applicant* at all intersections and shall be of a type approved by the town official having jurisdiction.
  4. Monuments. Permanent *survey* monuments (permanent markers) shall be set in the boundary of rights-of-way at intersecting *roads*, PC (point of curve beginning) and PT (point of tangent - end of curve) of curves, through the PI (point of intersection) of short curves may be used instead, where such is practical, at the discretion of the town superintendent of highways. Monuments shall be placed on one side of the *road* only and at only one corner of intersecting *roads*. Monuments shall be tied into the New York State Coordinate System, the USGS vertical datum, and any other acceptable datum. Monument locations should be shown on the *final plat*; and field notes of ties to monuments or a tie sheet shall be submitted to the town highway superintendent after installation of monuments. Monuments shall be of stone or concrete and not less than four inches in diameter or square, and not less than forty-two (42) inches long. Concrete monuments shall be reinforced with steel rods, and a plug, brass plate, or pin shall serve as the point of reference and a reinforcing rod or other metal shall be placed adjacent to allow for magnetic recovery. After construction and fine *grading* is completed, the corners of each *lot* shall be staked with iron pipe or pins.
  5. Road Lighting. When offered by the *applicant* or when required by the planning board, *road* lighting of a design approved by the town shall be installed by the *applicant* in a manner and location approved by the town, the appropriate power company and the highway superintendent. In the case of a *subdivision* involving a *county* or state highway, approval shall be obtained from the *county* superintendent of highways. Where a new lighting *district* is to be created or an existing *district* expanded, the *applicant* shall petition the *town board* to create said *district* or expansion and shall provide all required maps, plans and reports to establish same, prior to final approval of the *subdivision*.
  6. Widening of an Existing Road Right-of-Way. Where a *development* adjoins an existing *road* which does not conform to the town's or other jurisdictional *right-of-way* standards, the planning board may require that additional *right-of-way* width as necessary be provided, on the *development* side of the normal *road* centerline, a width which is equal to at least one-half of the minimum standard width for the respective type of *road right-of-way*.

(LL No. 3, 2001 § 5(c))

#### **16.12.040 Storm water management and erosion control.**

It is the intent of this section to assure that all *development* provides for adequate protection against the impacts associated

with stormwater and that *development* does not create added *stormwater runoff* from a development site. This intent is furthered by requiring that all *development* plans comply with the *stormwater management* and erosion and *sediment control* law of the town of Big Flats, New York (Chapter 17.37 of the town of Big Flats Municipal Code). The general submittal requirements for a *Storm Water Management Plan* are as follows:

- A. A *final plat* shall show and detail design features for a *storm water management* system sufficient to document compliance with The Standard for *Storm Water Management* in the Town of Big Flats.
- B. A plan for a *storm water management* system prepared by a *design engineer* may be required to fully support design considerations and/or to validate the *mitigation* of any *storm water* impacts associated with a *subdivision*.
- C. In order to insure that the *subdivision* will be developed with a minimum amount of soil erosion, the planning board shall require the *applicant* to follow certain erosion control practices. These practices shall generally be as described in the Empire State Chapter Soil & Water Conservation Society, New York Guidelines for Urban Erosion and *Sediment Control*, March, 1988, or its most recent revisions and shall include the following general practices:
  - 1. Exposing the smallest practical area of land at any one time during the *development*;
  - 2. Provision of *temporary* vegetation and/or mulching to protect critical areas;
  - 3. Provision of adequate drainage facilities to accommodate effectively the increased runoff caused by changed soil and surface conditions during and after *development*. The *design engineer* shall show, as part of their submitted plans, the interceptor swales and sedimentation basins along the lower edges of all *developments*. Topographic data and design grades for the swales shall be shown on the plans;
  - 4. Fitting of the *development* plan to the topography and soils to minimize the erosion potential;
  - 5. Retention and protection of natural vegetation wherever possible;
  - 6. Installation of permanent final vegetation and *structures* as soon as practicable;
  - 7. Provision of adequate protective measures when slopes in excess of fifteen (15) percent are graded, and minimizing such steep *grading*;
  - 8. Installation and maintenance of *temporary* sedimentation basins shall be in conformance with the Empire State Chapter Soil & Water Conservation Society, New York Guidelines for Urban Erosion and *Sediment Control*, March 1988, or its most recent revisions.

(LL No. 9, 2007 § 4; LL No. 3, 2001 § 5(d))

#### **16.12.050 Utilities.**

A. Water Supply and *Sewage Disposal*. Provisions for water supply and *sewage* disposal shall comply with requirements of the Town of Big Flats, Chemung *County Sewer District* No. 1, and/or NYS Health Department and/or NYS Department of Environmental Conservation.

B. Underground Installation. All utility companies (telephone, electric, etc.) are now equipped to make underground installation of their *services*; underground installation shall be required when practical.

(LL No. 3, 2001 § 5(e))

#### **16.12.060 Easements.**

*Easements* within the *subdivision* shall be provided where required for storm drains, sanitary sewers, other utilities, or pedestrian traffic. The designation of any such *easement* on a *final plat* shall constitute a restriction against the location of any *building* or conflicting use on such *easement*. Such *easements* shall generally be not less than twenty (20) feet wide. *Easements* for natural *watercourses* for constructed *channels* shall be provided as needed, with the required width based on the needed cross-section of *channel* to pass the design flow specified in Section 16.12.040.

(LL No. 3, 2001 § 5(f))

#### **16.12.070 Neighborhood Parks and Playgrounds.**

Pursuant to Section 277 of the Town Law, *final plats* shall be required to provide lands or the value of lands comprising up to ten (10) percent of the gross site area to accommodate parks or playgrounds *development* in conformance with the town comprehensive plan.

- A. General Guidelines. When such recreation areas are required by the planning board, they shall be provided on the basis of at least one acre for every twenty-five (25) *dwelling units* to be accommodated within the *subdivision*. *Subdivisions* with *lots* of one acre or more may not be required to provide recreation areas.
- B. Payment-In-Lieu. If the planning board determines that a suitable park or parks of adequate size cannot be properly located in any such *subdivision*, that it is otherwise impractical or that the improvement and/or further *development* of the town-wide park is more appropriate, the board may require as a condition of approval of such *subdivision* a payment to the town in an amount to be set by the *town board*. Such sum shall be paid to the *code enforcement officer* at the time of the issuance of a *building permit* for new residential construction. Such sums shall be deposited with the town clerk and shall be used exclusively to purchase, develop and equip parks, playgrounds and other recreational uses.
- C. All lands proposed for park or recreation purposes shall meet the following minimum standards:
  - 1. Such land shall either be deeded to the town or be held in corporate ownership and maintained by an established organization;
  - 2. Shall have physical characteristics and locations, which render them readily usable for appropriate recreation purposes, and their locations shall be selected with a view to minimize hazards and vehicular traffic for children walking;
  - 3. No such area may be smaller than two acres, and in general, recreation areas shall be located at a suitable place on the edge of the *development* so that additional land may be added when the adjacent land is developed;
  - 4. A detailed *development* plan shall be provided for each neighborhood park or playground. As a minimum, the *development* plan shall provide for an approximately level area at least one hundred seventy-five (175) feet by one hundred seventy-five (175) feet for children's field games;
  - 5. The *development* plan shall show how the entire area is to be graded, drained, and landscaped to make it a useful and attractive feature of the neighborhood;
  - 6. All *improvements* shown on the site *development* plan shall be made by the *applicant* as part of the required *improvements* of the *subdivision* as a whole.

(LL No. 3, 2001 § 5(g))

#### **16.12.080 Driveway standards.**

No *person*, firm or corporation shall construct or locate any *driveway* entrance or exit into a *road* in the town that does not meet The Standard For *Internal Drive* and *Driveway Construction* in the Town of Big Flats.

(LL No. 3, 2001 § 5(h))

#### **16.12.090 Steep Slope Guidelines.**

The topography of the town includes many *steep slopes* that benefit the community by providing scenic views, *aquifer recharge* areas and wooded areas and substantial protection against *flooding* and erosion. If these areas are not carefully protected, the benefits of these areas will be irreparably lost and extensive erosion and *flooding* is likely to occur. *Road* construction, *building site development*, and other *construction activity* proposed for these areas require special design consideration to prevent erosion,

minimize *storm water* runoff, and preserve *large trees*, natural terrain and scenic views.

A. General Requirements.

1. Each *subdivision* shall, in a plan, show all site work, cut and fill erosion and drainage control measures and any proposed *road, drive, internal drive* and/or *driveway* cross-sections. The detail of the plan shall be sufficient to determine if *steep slopes* exist on the proposed *subdivision* and the extent which such *steep slopes* affect the proposed site work. The preparation of these plans by a *design engineer* may be required.
2. Constructing or *grading* the *subdivision* to be level, otherwise known as padding, shall be permitted only when it can be clearly demonstrated, by exhibits presented in *final plat* submittals that the final treatment of the site meets the requirements of this section.

B. Design Requirements. Design principles and criteria used in the review of a *subdivision* shall include, but are not limited to, the following:

1. Landscaping of areas around *lots* or *structures* making such areas compatible with the natural terrain;
2. Shaping, grouping and placement of manmade *structures* to complement the natural *landscape*;
3. Arrangement of *lots* so they complement one another to promote visual interest;
4. Shaping of essential grades to conform to the existing contours and prohibit the appearance of successive padding, terracing or other similar form of grading for a lot site in steep slope areas;
5. Encouragement of split-level lots that are created on two levels or pads rather than with one steep grade;
6. Use of one-way roads when consistent with traffic safety, circulation needs, and natural topography. This guideline may allow for smaller road right-of-way, less cut and fill within a given area and a road network consistent with the natural terrain. A road shall be parallel with the hillside wherever possible and may require variable width of right-of-way. This shall not only provide the most economical routing, but also minimize the amount of grading required.

C. Slopes Greater Than Twenty-Five Percent. A slope greater than twenty-five (25) percent (2.5 feet of vertical rise in a ten (10) feet horizontal distance) shall not be developed in a *final plat* unless the lots can meet the requirements of a buildable lot without excessive grading and/or filling. There shall be an area that is a minimum of five thousand (5,000) square feet available on each proposed lot in a *final plat* that has an existing slope of less than twenty-five (25) percent for such lot to be considered a buildable lot.

(LL No. 3, 2001 § 5(i))

## Chapter 16.16

### CONVERTED CONDOMINIUM ASSESSMENTS

Sections:

**16.16.010 Title.**

**16.16.020 Authority.**

**16.16.030 Purpose, definitions and adoption.**

**16.16.010 Title.**

This chapter shall be known as the "Town of Big Flats Converted *Condominium* Law."

(LL No. 4, 2006 § 1)

**16.16.020 Authority.**



This chapter is enacted pursuant to Real Property Tax Law Section 581(1)(c), Real Property Law Section 339-y(1)(f) and Municipal Home Rule Law Section 10.  
(LL No. 4, 2006 § 2)

**16.16.030 Purpose, definitions and adoption.**

A. Purpose. This chapter is adopted to elect the local option provided under Real Property Tax Law Section 581(1)(c) and Real Property Law Section 339-y(1)(f) in regard to waiving the limitations of Real Property Tax Law Section 581(1)(a) and Real Property Law Section 339-y(1)(b) as such limitation applies to the total assessed value of *converted condominium units* located within the town of Big Flats.

B. Definitions. *Converted condominium units* for the purpose of this chapter shall be defined as such term is defined under Real Property Tax Law Section 581(1)(c), Real Property Law Section 339-y(1)(f).

C. Adoption. Pursuant to Real Property Tax Law Section 581(1)(c) and Real Property Law Section 339-y(1)(f), *converted condominium units* within the town shall not be subject to the limitation in assessment as provided under Real Property Tax Law Section 581(1)(a) and Real Property Law Section 339-y(1)(b).  
(LL No. 4, 2006 § 3)